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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,723	04/13/2006	Hidetoshi Konno	1034185000077	1789

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BUCHANAN, INGERSOLL & ROONEY PC  
POST OFFICE BOX 1404  
ALEXANDRIA, VA 22313-1404

EXAMINER
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HUYNH, LOUIS K

ART UNIT	PAPER NUMBER
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3721

NOTIFICATION DATE	DELIVERY MODE
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10/01/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com  
debra.hawkins@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,723	<b>Applicant(s)</b> KONNO ET AL.	
	<b>Examiner</b> Louis K. Huynh	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/13/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors:

- Claim 1, lines 1-8: "wherein ... final configuration" is indefinite because it is unclear as to the structural limitations of the claimed packaging apparatus; there are no structural limitations being set forth for performing the recited functions.

- Claim 1, line 9: “the same” is indefinite because it is unclear as to what the same is supposed to be: the transversal sealing apparatus or the high frequency oscillator.
- Claim 1, line 10: “the same” is indefinite because it is unclear as to what the same is supposed to be: the transversal sealing apparatus or the high frequency oscillator or the inductor or “the same” of line 9.
- Claim 1, lines 12-13: “affecting the quality of said transversal sealing and the quality of said transversal sealing” is not understood. Perhaps, this is a typographical error.
- Claim 2, lines 1-5: “effect factor includes ... and thickness of the conductive layer” is indefinite because the effect factor is in singular form but includes a plurality of factors.
- Claim 3, lines 1-3: “said effect factor includes ... and output impedance from the same” is indefinite because the effect factor is in singular form but includes a plurality of factors.
- Claim 3, line 3: “the same” is indefinite because it is unclear as to what the same is supposed to be: the energy output or the high frequency oscillator or “the same” of claim 1.
- Claim 5, lines 2-8: “wherein ... final configuration” renders the claim indefinite because it is unclear as to the structural relationship of the method for forming the final product with respect to the claimed transversal sealing apparatus.

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- Claim 5, line 9: “the same” is indefinite because it is unclear as to what the same is supposed to be: the transversal sealing apparatus or the high frequency oscillator.
- Claim 5, line 10: “the same” is indefinite because it is unclear as to what the same is supposed to be: the transversal sealing apparatus or the high frequency oscillator or the inductor or “the same” of line 9.
- Claim 5, lines 12-13: “affecting the quality of said transversal sealing and the quality of said transversal sealing” is not understood. Perhaps, this is a typographical error.
- Claim 6, line 6: “the same” is indefinite because it is unclear as to what the same is supposed to be: the moisture percentage or temperature of the fluid or characteristics of the sealing thermoplastic layer or the thickness of the conductive layer or the amount of energy output from the high frequency oscillator or “the same” of claim 5.
- Claim 6, lines 2-5: “effect factor includes ... and output impedance from the same” is indefinite because the effect factor is in singular form but includes a plurality of factors.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Papina et al. (US 5,787,681).

Papina discloses a packaging apparatus comprising a transversal sealing apparatus (14), wherein the transversal sealing apparatus (14) includes: a high frequency oscillator (34), a controller (36), an inductor (31, 32), and a control means (sensor 38) that would transmit a control signal to the controller (36) (col. 5, lines 23-53).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papina et al. (US 5,787,681).

The packaging apparatus of Yano meets all of applicant's claimed subject matter but lacks the specific teaching of the effect factor includes a moisture percentage contained in the packaging material, temperature of the fluid product, characteristics of the sealing thermoplastic

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layer of the packaging material, thickness of the conductive layer, an amount of energy output from the high frequency oscillator, or output impedance from the high frequency oscillator. However, in order to provide a proper seal the controller must have a set of control or master data for the sealing operation such as specific type of packaging material, thickness of the packaging material, melting temperature of the packaging material, output temperature of the inductors, duration for the seal to be completed, etc. so that the controller upon receiving data transmitted from a detector or sensor would compare the received data with the master data in order to adjust the operating parameters of the sealing operation in order to form a proper seal and/or to stop the machine in order to prevent damages or waste. The controller (36) of Papina is capable of storing master data for the transversal sealing operation of the packaging apparatus and comparing data received from the control means (sensor 38) (col. 5, lines 31-39). Therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have provided the controller (36) of Papina with a master data for the transversal sealing operation.

### *Conclusion*

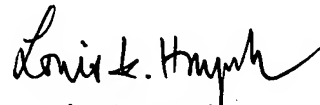
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied references.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 8:00AM to 3:00PM.

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9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 24, 2007



Louis K. Huynh  
Primary Examiner  
Art Unit 3721